

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA

ABDULKANI ABDI ALI,

Civil No. 11-3484 (JNE/FLN)

Plaintiff,

v.

REPORT AND RECOMMENDATION

LUIS CAVAZOS,

Defendant.

This matter is presently before the Court for the purpose of determining whether Plaintiff has complied with the requirements of the Court's order dated December 19, 2011. (Docket No. 5.) That order directed Plaintiff to submit a properly completed U.S. Marshal Service Form, (USM-285), for the Defendant in this case. The order also expressly advised Plaintiff that if he did not file his marshal service form within thirty (30) days, he would be deemed to have abandoned this action, and it would be recommended that the action be summarily dismissed for lack of prosecution.

The deadline for complying with the Court's order has now expired, and Plaintiff has not yet submitted the required marshal service form. Furthermore, the Court has received a letter from Plaintiff which confirms that he does not intend to continue to prosecute this action. (Docket No. 6.) Therefore, the Court recommends that Plaintiff be deemed to have abandoned this action, and that the action be dismissed, without prejudice, for failure to prosecute. See Fed. R. Civ. P. 41(b) (actions may be dismissed for failure to comply with court orders); see also Henderson v. Renaissance Grand Hotel, 267 Fed.Appx. 496, 497 (8th Cir. 2008) (unpublished opinion) ("[a] district court has discretion to dismiss an action

under Rule 41(b) for a plaintiff's failure to prosecute, or to comply with the Federal Rules of Civil Procedure or any court order"); Link v. Wabash Railroad Co., 370 U.S. 626, 630-31 (1962) (recognizing that a federal court has the inherent authority to "manage [its] own affairs so as to achieve the orderly and expeditious disposition of cases").

Based upon the above, and upon all the records and proceedings herein,

IT IS HEREBY RECOMMENDED that:

This action be **DISMISSED WITHOUT PREJUDICE**.

Dated: January 23, 2012

s/ Franklin L. Noel _____
FRANKLIN L. NOEL
United States Magistrate Judge

Pursuant to the Local Rules, any party may object to this Report and Recommendation by filing with the Clerk of Court and serving on all parties, on or before **February 6, 2012**, written objections which specifically identify the portions of the proposed findings or recommendations to which objection is being made, and a brief in support thereof. A party may respond to the objecting party's brief within ten days after service thereof. All briefs filed under the rules shall be limited to 3500 words. A judge shall make a de novo determination of those portions to which objection is made. This Report and Recommendation does not constitute an order or judgment of the District Court, and it is, therefore, not appealable to the Circuit Court of Appeals.